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February 26, 2022

Via ECF

The Honorable Eric R. Komitee
United States District Court for the Eastern District of New York
Theodore Roosevelt United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Capogrosso v. Gelbstein, et al., No. 18 Civ. 2710 (EK) (LB)

Dear Judge Komitee,

This Office represents Defendants Alan Gelbstein, Ida Traschen, and Danielle Calvo, in their individual capacities, and New York State Department of Motor Vehicles ("DMV") Commissioner Mark Schroeder, in his official capacity (collectively, the "State Defendants"), in the above-referenced matter. I write pursuant to Individual Rule I(C) to request a two-week extension of time for the State Defendants to file their response to the Plaintiff's objections and supplemental objections to the Report and Recommendation issued by Magistrate Judge Bloom. Under Federal Rules 72(b)(2) and 6(d), the State Defendants' response is currently due on Thursday, March 3; the revised deadline would be Thursday, March 17.

The additional time is necessary because of existing deadlines in other matters assigned to the undersigned counsel, and due to the length of the *pro se* attorney Plaintiff's filings, which include 66 pages of objections (*see* Dkt. No. 282), plus an additional later-filed set of supplemental objections totaling 15 pages (*see* Dkt. No. 283). By contrast, the State Defendants anticipate filing a response that complies with the page limits set forth in Individual Rule III(D)(1). This is the State Defendants' first request for an extension of time to file their response to the Plaintiff's objections.

I have reached out to the other parties for their position on the extension; Defendant Smart consented by email, while the *pro se* attorney Plaintiff left me a voicemail message stating, "I do not grant an extension of time, no, no. I asked for an extension of time, the court didn't give it to me to reply to the Report and Recommendation, therefore I'm not giving it to you. I don't understand why I should be doing it. The Court didn't give it to me, so I do not grant it to you. Alright? Why are you asking for a two week extension of time? The Court didn't grant it to me, therefore I'm not granting it to you, and you have to report to the Court, that's my reply. The Court didn't grant it to me, I am not granting it to you."

The Plaintiff's version of events is not accurate: the Court did not deny him an extension, but simply noted that the request was moot after his 81 pages of objections were already filed. See Minute Order dated February 22, 2022. Notably, the Plaintiff, who is an attorney, did not ask the State Defendants' consent for his extension request, as required by Individual Rule I(C). If he had, we would have consented as a matter of professional courtesy. We thank the Court for its time and consideration of this request.

Respectfully submitted,



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Cc: All counsel of record (via ECF)

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